IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1850 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/09/2003 in WP NO : 31893 OF 1997 on the file of the High Court.)

Between:

1 Government of Andhra Pradesh, rep., by its Principal Secretary to Government, Higher Education Department, Hyderabad.
2 The Commissioner, Collegiate Education, Nampally, A.P. Hyderabad.

..... APPELLANTS

AND

1 D. Charles, Lecturer in Telugu, Noble College, Machilipatnam.
2 The Secretary and Correspondent, Noble College, Machilipatnam, Krishna District.

(R 2 not necessary party)

.....RESPONDENTS

Counsel for the Appellant:GP FOR HIGHER EDUCATION

Counsel for the Respondent No.: MR.P.V.SANJAY KUMAR

The Court made the following :

JUDGMENT: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the appellant aggrieved by the order of the learned single Judge, by which, the writ petition was allowed in part directing the respondents-authorities to regularize the services of the writ petitioner with effect from 19.7.1993.

The appellants and the 2nd respondent herein are the respondents and the 1st respondent is the petitioner in the writ petition.

The grievance of the appellants is that the said regularization as directed by the learned single Judge, is not in accordance with the terms of the guidelines issued in G.O.Ms.No:78, dated 15.3.1996. According to the proceedings of the appellants, the services of the writ petitioner are ordered to be regularized prospectively from 6.4.1996. Therefore, the order of the learned single Judge in directing the appellants to regularize the services of the writ petitioner with effect from 19.7.1993, is contrary to the said G.O. and the same is liable to be set aside.

The learned counsel for the writ petitioner, however, sought to sustain the order of the learned single Judge. It is contended by the learned counsel that G.O.Ms.No:78 was already considered by a Division Bench of this Court in W.A.No:1225 of 1998. This Court has negatived the contention of the government and upheld the order of the learned single Judge in that appeal.

At the time of hearing, the learned G.P. for Higher Education sought to contend that though the claim of the writ petitioner for regularization was originally forwarded by the 2nd respondent-management, but the same was rejected in the year 1991. Thereafter, again, the proposals were forwarded in the year 1993. In pursuance of the said proposals, the Government considered the case of the writ petitioner along with three others and as a special case, the appointments were approved by the Government by proceedings dated 30.3.1996. Pursuant to which, the 2nd appellant passed consequential orders on 6.4.1996 giving approval with prospective effect with reference to all the four persons covered by the order of the Government. Pursuant to the said order, an appointment was given to the writ petitioner and he reported to duty without raising any objection. Therefore, the writ petitioner is not entitled for any other further relief.

The learned counsel for the writ petitioner, however, contended that though the

original proposals sent by the management, were rejected in the year 1991, but, however, due to the vacancy which has arisen in the year 1993 in view of retirement, fresh proposals were sent by the management in July 1993 for approval of the appointment of the writ petitioner. Pursuant to which, an order was passed by the Government on 30.3.1996. When once approval was accorded by the Government as a special case pursuant to the proposals sent by the Management in the year 1993, the approval must take with effect from the date when the proposals were sent by the management. It is also stated that the order of the Government does not indicate that the approval was with prospective effect. However, it is only the 2nd appellant who issued the consequential proceedings, to incorporated the term "prospective effect". According to the learned counsel for the writ petitioner, the 2nd appellant has no jurisdiction to restrict the effect of the order of the Government by putting the clause of prospective effect. Therefore, he sought to sustain the order of the learned single judge.

The learned counsel for the writ petitioner has also stated that the writ petitioner, who was appointed in the year 1988 and has been working on a consolidated salary, had lost more than five years of his service even by 1993 and therefore, it is not just and proper to deny and deprive the interests of the writ petitioner anyfurther.

Heard both sides and considered the material on record.

Admittedly, the writ petitioner was appointed against a regular aided vacancy in the year 1988. But, however, on some grounds, when the proposals were sent by the management, the same were not approved by the competent authority. However, during the year 1993 when another vacancy had arisen, the proposals were sent by the management not only with reference to the writ petitioner, but also with reference to three other lecturers, who were appointed only in the year 1993. The Government after consideration as a special case approved the said proposals by proceedings dated 30.3.1996. But, while giving effect to the said proceedings of the Government, the 2nd appellant has put a rider to give effect to the order of the Government as prospective.

Aggrieved by the additional rider incorporated by the 2nd appellant, the writ petitioner has come up with the present writ petition.

The learned single Judge who considered the rival contentions and also the position of vacancy, has agreed with the contention of the learned counsel for the writ petitioner and directed the appellants to treat the approval given by the 1st appellant-Government as

against the aided vacancy that had arisen on 19.7.1993 with all consequential benefits. The said order is assailed in the present writ appeal.

At the time of hearing, in fact, it is brought to our notice that another lecturer in English by name S.J.Earnest also filed a writ petition before this Court and the same was allowed directing the appellants to give effect of regularization from the year 1993. When the said order was assailed in the writ appeal, as there was delay in filing the appeal, the said delay was declined to condone, as a result of which the order of the learned single Judge was confirmed whereunder, the relief of regularization with effect from 1993 was granted.

In the present appeal, the specific ground attacking the order of the learned single Judge, is with reference to G.O.Ms.No:78 as already referred to above. The said ground is covered against the Government by virtue of the order in W.A.1225 of 1998, dated 3.8.1999. Therefore, the said ground is not available in the instant case.

In view of the above, We do not find that there are any merits warranting interference with the order of the learned single Judge.

The writ appeal is accordingly dismissed. No costs.

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Justice T.Meena Kumari

Date:21st February, 2005.

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Justice S.Ananda Reddy.

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Copies to the

1 Principal Secretary to Government, Higher Education Department, Government of Andhra Pradesh, Hyderabad.
2 The Commissioner, Collegiate Education, Nampally, A.P. Hyderabad.

3 The Secretary and Correspondent, Noble College, Machilipatnam, Krishna District.

4. Two C.Cs to the G.P. for Higher Education, High Court buildings, Hyderabad.(OUT)

5 Two C.D. Copies.

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT APPEAL NO : 1850 of 2004

(Judgment delivered by the Honourable

Sri Justice S.Ananda Reddy)

21st February, 2005.